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C O N F I D E N T I A L SECTION 01 OF 02 USUN NEW YORK 000098

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TAGS: [PREL](#) [PGOV](#) [KPKO](#) [SU](#) [AF](#)  
SUBJECT: UNMIS CONSULTATIONS AND THE ICC

Classified By: Ambassador Susan Rice for reasons 1.4 (b) and (d).

11. (SBU) This is an action request. See paragraphs 3 and 11.

12. (SBU) Summary: On February 5, the Security Council held consultations on the Secretary General's quarterly report on the United Nations Mission in Sudan (UNMIS). SRSG Qazi stressed that the Comprehensive Peace Agreement (CPA) is vulnerable, given pressures created by the conflict in Darfur and the pending decision of the International Criminal Court on the arrest warrant against President Bashir. Qazi urged the Council to increase its focus on CPA implementation, saying that, if the CPA fails, the results of this failure will be ten times worse than what we are seeing in Darfur. Council members commented on the importance of border demarcation, wealth sharing, elections, and disarmament, demobilization and reintegration of soldiers (DDR).

13. (C) Some Council members also commented on the International Criminal Court (ICC) consideration of the request for an arrest warrant against President Bashir. Our informal breakdown regarding an Article 16 resolution for deferral has seven Council members in favor of deferral and eight Council members opposed. Council members believed to be in favor of deferral are China, Russia, Libya, Vietnam, Burkina Faso, Uganda, and Turkey. Those believed to be opposed (in addition to the United States) are the United Kingdom, France, Croatia, Austria, Costa Rica, Mexico and Japan. USUN requests that the Department consider demarching the capitals of Council members who oppose deferral, to shore up this opposition, and Council members who may be persuaded to switch sides or at least abstain from voting on a potential Article 16 resolution for deferral (Burkina Faso, Uganda and Turkey) to attempt to increase the margin of those opposed to deferral. End Summary.

Qazi Briefs the Council  
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14. (SBU) In closed consultations of the UN Security Council on February 5, Special Representative Ashraf Qazi characterized 2009 as a "make or break" year for CPA implementation. He identified the key remaining CPA areas as finalizing border demarcation, redeployment of forces, census results, elections and the DDR process. Qazi also noted that the Abyei Road Map Agreement must be adhered to, including both the Government of National Unity (GNU) funding the administration and respect for the decision on Abyei's borders, which the Permanent Court of Arbitration expects to issue later this year. He said that the humanitarian implications if the CPA were to unravel would be staggering, and he urged Council members to develop a comprehensive strategy for Sudan, encompassing both North-South issues and Darfur in a holistic way.

A Holistic Approach to Sudan?  
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15. (SBU) Ambassador Rice said that the GNU must fund the

interim Abyei Administration and must join the Government of Southern Sudan (GOSS) in requesting election assistance from UNMIS. She expressed concern with the GOS making public threats of violence should the ICC issue an arrest warrant against President Bashir. Ambassador Rice also noted the importance of DDR efforts and that the people of Sudan have yet to see a peace dividend. Making life better for the people of Sudan, through investment in education, transportation and health infrastructure, she said, will solidify peace.

¶16. (SBU) The UK echoed the call for funding of the interim Abyei administration and for both parties to begin wealth-sharing discussions now, well in advance of the 2011 referendum. Croatia stressed that there can be no further delays in CPA implementation and agreed with SRSG Qazi that 2009 would be a critical year. Russia noted the link between CPA implementation and other peace processes, including Darfur, regional tensions with Chad, and movements of the LRA in southern Sudan. China argued that the Darfur conflict could spill over to South Kordofan, which would seriously effect the peace agreement. Vietnam urged greater coordination between regional peacekeeping operations in Sudan, Chad, Central African Republic and the Democratic Republic of the Congo. Uganda stressed the helpful role of the Government of Southern Sudan (GOSS) in hosting peace talks between Uganda and the Lord's Resistance Army (LRA). Turkey also stated that the CPA and Darfur need to be addressed comprehensively.

#### ICC Discussion

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¶17. (SBU) Libya argued that an ICC decision to issue an arrest against President Bashir would impact implementation of the CPA and would have an adverse effect on security. Libya urged the Council to pass an Article 16 resolution deferring ICC action. Russia also admonished Council members that an ICC decision would impact political dynamics and highlighted that, in a January 19 meeting in Juba, the Sudan People's Liberation Movement (SPLM) had indicated possibly unilaterally declaring independence in the wake of an ICC decision. (Note: In a private meeting between Ambassador DiCarlo and SRSG Qazi, Qazi said he did not believe the south would issue a unilateral declaration of independence. Qazi emphasized this in his concluding remarks before the Council as well. End Note.)

¶18. (SBU) Turkey stated that the Council would be faced with difficult choices in the near future and urged the Council to refrain from further complicating the situation on the ground. China asserted that an ICC prosecution would prevent successful negotiation of a peace agreement for Darfur. Burkina Faso and Vietnam likewise maintained that an ICC decision would have a negative impact, and the Council should take action to promote peace in Sudan.

¶19. (SBU) Costa Rica strongly stated that the ICC discussion was inappropriate. Costa Rica noted that there had been dire predictions concerning the International Criminal Tribunal for the Former Yugoslavia (ICTY) at the time Milosevic, Karadzic and Mladic had been indicted but that those fears had not materialized. Costa Rica chastised members who attempted to create a false dilemma, with the price of peace being impunity. Croatia reiterated that Sudan must cooperate with the ICC, and the Council must fully support the independence of the ICC. France argued that the ICC should not be used as an excuse, nor a distraction, for failure to implement the CPA. The UK said that the Council could reflect on an ICC decision if and when the time comes.

¶10. (C) Action Request: USUN requests the Department to consider demarching capitals of Security Council members who are opposed to deferral: the United Kingdom, France,

Croatia, Austria, Costa Rica, Mexico and Japan. USUN believes it is important to solidify opposition to deferral and that, given the recent escalation in violence, engaging in divisive debate over an Article 16 resolution in the Council would not be helpful. With the margin for opposition to ICC deferral consisting of only one member state, USUN believes we must try to create a greater margin of opposition by shifting the positions of Burkina Faso and Uganda and encouraging Turkey to stay out of the fray. Mission would recommend in particular an approach by the P-3 in Ouagadougou and Kampala as soon as possible. Given that the countries who strongly favor deferral are unlikely to change their position, USUN recommends against demarching China, Russia, Libya and Vietnam. End Action Request.  
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